

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	)	
	)	
Respondent/Plaintiff,	)	
	)	
v.	)	Criminal Action No. 05-47-*** (MPT)
	)	Civil Action No. 07- <del>487</del> -*** (MPT)
	)	<b>789</b>
NELSON LORA-PENA,	)	
	)	
Movant/Defendant.	)	

**ORDER**

WHEREAS, defendant Nelson Lora-Pena ("movant"), a federal prisoner, has filed a form motion to vacate, set aside, or correct sentencing pursuant to 28 U.S.C. § 2255 (D.I. 47); and

WHEREAS, the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2244, effectively precludes movants from filing a second or subsequent § 2255 motion except in the most unusual of circumstances; and

WHEREAS, the United States Court of Appeals for the Third Circuit has mandated that, before ruling on the merits of a § 2255 motion, a movant must be given notice that the AEDPA applies to his pending motion, *see United States v. Miller*, 197 F.3d 644 (3d Cir. 1999) and *Mason v. Meyers*, 208 F.3d 414 (3d Cir. 2000);

NOW, THEREFORE, IT IS ORDERED this 17 day of December, 2007, that on or before January 31, 2008, the movant must file the attached election form with the court. Failure to timely return the completed election form will result in the

court's ruling on the pending motion as filed.



Honorable Mary Pat Thyng  
U.S. Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	)	
	)	
Respondent/Plaintiff,	)	
	)	
v.	)	Criminal Action No. 05-47-*** (MPT)
	)	Civil Action No. 07- <del>467</del> -*** (MPT)
	)	789
NELSON LORA-PENA,	)	
	)	
Movant/Defendant.	)	

**AEDPA ELECTION FORM**

1. \_\_\_\_\_ I wish the court to rule on my § 2255 motion as currently pending. I realize that the law does not allow me to file successive or later petitions unless I receive certification to do so from the United States Court of Appeals for the Third Circuit; therefore, this motion will be my one opportunity to seek federal habeas corpus relief.
  
2. \_\_\_\_\_ I wish to amend my § 2255 motion to include all the grounds I have. I will do so within thirty (30) days. I realize that the law does not allow me to file successive or later motions unless I receive certification to do so from the United States Court of Appeals for the Third Circuit; therefore, this amended all-inclusive motion will be my one opportunity to seek federal habeas corpus relief.

3. \_\_\_\_\_ I wish to withdraw my § 2255 motion without prejudice to file one all-inclusive motion in the future; that is, one that raises all the grounds I have for federal habeas corpus relief. I realize this all-inclusive motion must be filed within the one-year period as defined by 28 U.S.C. § 2244(d). *See Swartz v. Meyers*, 204 F.3d 417 (3d Cir. 2000).

4. \_\_\_\_\_ I am not seeking federal habeas corpus relief under § 2255. I am instead seeking relief under \_\_\_\_\_.

\_\_\_\_\_  
Movant